

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

RALPH MILLER,

No. C 02-2118 MJJ (MEJ)

Plaintiff(s),

vs.

**ORDER SPECIFYING MEET AND
CONFER REQUIREMENTS FOR
DISCOVERY DISPUTES**

INTERNATIONAL BUSINESS MACHINES, et
al,

Defendant(s).

The Court is in receipt of IBM's administrative motion, filed April 3, 2006, for instructions on how to obtain relief for plaintiff Miller's alleged discovery failings. Doc. #394. In its motion, IBM moves for instructions on how to proceed with Miller's refusal to comply with (a) his discovery obligations, (b) this Court's orders and (c) this Court's standing order on discovery and dispute procedures. Miller filed an opposition on April 4, 2006 (Doc. #405), and IBM filed a reply on April 5, 2006. Doc. #406. Upon review of the parties' arguments, the Court hereby ORDERS as follows:

- 1) The parties shall meet and confer **in person** within two weeks from the date of this Order for all discovery disputes raised in Mr. Kieve's declaration. Doc. #395. Given that counsel for both parties are scheduled to appear for a hearing before the undersigned on April 13, 2006 and will be present in this District, the meet and confer session shall take place in the Northern District of California.
- 2) If the parties are unable to resolve their disputes, IBM shall provide Miller with its portion of any joint letter briefs within one week from the date of the meet and confer. Miller shall

thereafter provide IBM with his portions of any joint letters within one week from the date IBM serves its portion. The parties shall then e-file a jointly signed letter within three days and provide a courtesy copy to chambers by the next business day. The parties shall address only one discovery dispute per letter.

3) If any future discovery disputes arise, the requesting or objecting party shall provide written notice to the opposing party and request an in person meet and confer session. Within three days from receiving notice, the opposing party shall provide written notice of three potential dates and times for a meet and confer session within the following two weeks. The meet and confer sessions shall be conducted **in person** in this District unless good cause exists to permit a telephonic meet and confer session (see No. 4 below). After the meet and confer session, the parties shall follow the procedure outlined in No. 2 above, except that the requesting or objecting party shall provide its portion of a joint letter first.

4) If either party believes good cause exists for a telephonic meet and confer session on a specific issue, pursuant to Civil Local Rule 7-11, that party may seek leave from the Court to meet and confer by telephone. Given that Miller has counsel in this District and New Jersey, the fact that counsel in New Jersey cannot meet and confer in person does not constitute good cause for a telephonic conference unless it can be shown that Oakland counsel is not involved in and has no knowledge of the particular discovery dispute.

Failure to comply with this Order shall result in the imposition of sanctions.

IT IS SO ORDERED.

Dated: April 6, 2006



MARIA ELENA JAMES
United States Magistrate Judge